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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MAY 09 2014

Uniform Issue List: 408.03-00

XXX
XXX
XXX

T. EP. RA. T2

Legend:

Taxpayer A	=XXX
Taxpayer B	=XXX
Amount 1	=XXX
Amount 2	=XXX
Amount 3	=XXX
Financial Advisor G	= XXX
IRA-SEP P	= XXX
Roth IRA Q	= XXX
IRA R	= XXX

Dear XXX:

This is in response to your request submitted on your behalf by your authorized representative dated December 17, 2012, as supplemented by correspondence dated April 17, 2013, in which you request a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

On May 8, 2008, Taxpayer A requested distributions of Amount 1 from IRA-SEP P and Amount 2 from Roth IRA Q. That same day, Taxpayer B requested a distribution of Amount 3 from IRA R. Taxpayers A and B (collectively, "the Taxpayers") assert that their failure to accomplish rollovers of Amounts 1, 2 and 3, within the 60-day rollover period, was due to their reliance on assertions made by Financial Advisor G.

Financial Advisor G approached the Taxpayers about a short-term investment opportunity, in which the Taxpayers would provide the initial investment, and principal and interest would be returned to them within the 60-day rollover period. Upon the advice of Financial Advisor G, the Taxpayers received distributions from their IRAs of Amounts 1, 2 and 3. They entrusted the distributions with Financial Advisor G, who used the funds for the investment. The investment was then stolen, held in litigation, and was not returned to the Taxpayers during the 60-day rollover period. Financial Advisor G has provided a statement regarding the Taxpayers' reliance upon his assertions that the funds would be returned within the 60-day rollover period.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service ("Service") waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to Amounts 1, 2 and 3.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if—

(i) the entire amount received (including money and any other property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

(ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if at any time during the 1-year period ending on the day of such receipt such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6) of the Code.

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) of the Code where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359 (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by the Taxpayers is consistent with their assertion that their failure to accomplish timely rollovers of Amounts 1, 2 and 3 was caused by their reliance on assertions made by Financial Advisor G, resulting in the failure to rollover Amounts 1, 2 and 3 into IRAs within 60 days of receiving the distributions.

Therefore, pursuant to section 408(d)(3)(A) of the Code, the Service hereby waives the 60-day rollover requirement with respect to Amounts 1, 2 and 3. Taxpayer A is granted a period of 60 days from the issuance of this letter ruling to contribute Amounts 1 and 2 into rollover IRAs. Taxpayer B is granted a period of 60 days from the issuance of this ruling to contribute Amount 3 into a rollover IRA. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contributions, Amounts 1, 2 and 3 will be considered rollover contributions within the meaning of section 408(d)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed by section 408(a)(6) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter ruling has been sent to your authorized representative pursuant to a power of attorney on file in this office.

If you wish to inquire about this ruling, please contact XXXX at (XXX) XXX-XXXX.
Please address all correspondence to SE:T:EP:RA:T3.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 3

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

CC: XXX